

Application No. 09/989,202
Amendment Dated May 31, 2005
Reply to Office Action of April 12, 2005

REMARKS/ARGUMENTS:

Claims 1, 9, 17, 20 were rejected under 35 USC § 103(a) as being unpatentable over Capra et al "WebContext: Remote Access to Shared Context", ACM 2001, pages 1-9 and further in view of Alpdemir (US 2002/0035474). Claims 2-8, 10-16, 18, 19, 21 and 22 were rejected under 35 USC § 103(a) over Capra et al "WebContext: Remote Access to Shared Context", ACM 2001, pages 1-9, in view of Alpdemir (US 2002/0035474) further in view of Kwak (US 2002/0198933).

The rejections are traversed.

The article by Capra et al "WebContext: Remote Access to Shared Context", ACM 2001 does not qualify as prior art. According to website downloads (enclosed) this article was presented at an ACM International Conference Proceeding Series on Perceptive User Interfaces held on November 15-16, 2001 in Orlando, Florida. A Table of Contents is enclosed, which indicates that this article was presented in the third of four paper presentations and was presented on November 16, 2001. Thus, the Capra et al. article has a November 16, 2001 publication date.

Prior to this publication date, on November 15, 2001, the applicant signed his declaration for patent application after receiving fax correspondence dated November 15, 2001 from the inventor's attorney that included the proposed application with papers to sign. Thus, earlier conception of the invention on November 15, 2001 is before the publication date of the Capra article on November 16, 2001.

Enclosed is a Declaration under 37 CFR § 1.131 to account for each day during the time period between November 15, 2001 and November 21, 2001, which is when the patent application was accorded a filing date, by showing due diligence in trying to

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file the patent application to patent the invention. The Declaration indicates that the attorneys' office was preparing documents on November 16 and 19, 2001 to accompany the filing of the patent application. November 17 and 18, 2001 were weekend days when the attorneys' office was closed but the signed declaration was in transit from the inventor to the attorneys' office via US Postal Service delivery. The attorney signed the applicable transmittal forms on November 19, 2001 after receipt of the signed papers from the inventor and an attempt was made to deliver them to the US Patent and Trademark Office through express mail delivery service the same day.

Typically, the application would have been filed that day via express mail addressee delivery service. Indeed, an express mail envelope was prepared and addressed to the 20231 zip code of Washington, D.C. and dated stamped on November 19, 2001 with appropriate postage. Under ordinary circumstances, such is sufficient to establish a filing date of November 19, 2001 for the patent application. However, the USPTO suspended express mail service to the 20231 zip code on November 19, 2001 in the aftermath of the tragic events of September 11, 2001, which would account for the express mail envelope being in an opened condition with the corresponding patent application file folder that is maintained at the offices of Gibbons, Del Deo, Dolan, Griffinger & Vecchione, P.C.

On November 20, 2001, the patent application and signed forms were forwarded via federal express delivery service to a law firm in Crystal City, Virginia with instructions to effect hand delivery of the patent application with the US Patent and Trademark Office (see copy of correspondence dated November 20, 2001). Such hand delivery was effected on November 21, 2001.

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Therefore, in light of the publication date of November 16, 2001 of the Capra et al. article, the accompanying correspondence shows earlier conception of the invention at least as early as November 15, 2001 and due diligence each day, without interruption, in patenting the same from November 15, 2001 through November 21, 2001. The Capra et al. article is therefore disqualified from being treated as prior art to the present application. Thus, the entire claim rejection fails and warrants withdrawal, because it relies on the Capra et al. article to substantiate the claim rejection.

Further, the Office Action fails to make a thorough claim element by claim element comparison with the prior art or a thorough claim step by claim step comparison with the prior art, so no *prima facie* case for obviousness was made out. In particular, the independent claims call for framing a search request to identify a toll-free 800 number or other company information based on information taken from advertising for a product or service. None of the citations reveal such a concept and the Office Action makes no effort to show otherwise.

Withdrawal of the rejection is warranted and requested.


CORRESPONDENCE AND FEES:

In the event that there are fees necessitated by this response, authorization is hereby given to charge Deposit Account No. 03-3839. Please address all correspondence to Intellectual Property Docket Administrator, Gibbons, Del Deo, Dolan, Griffinger & Vecchione, One Riverfront Plaza, Newark, NJ 07102-5497. Should there be any questions or other matters that may be resolved by a telephone call, the Examiner is invited to contact the applicants' undersigned attorney at the number below. Any communications should be sent directly to him at the number below.

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Respectfully submitted,

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